

ORIGINAL
FILE

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

JUN 25 1992

In the Matter of)

The Telephone Consumer Protection)
Act of 1991)

CC Docket No. 92-90

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The New York State Department of Public Service

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(Department or NYDPS) submits these reply comments in the
captioned case. In our initial comments, we suggested that a
Federal Communications Commission
Office of the Secretary

national database would be the most efficient and economical

means of protecting residential subscribers' privacy rights.

Other parties asserted that such a database would be too costly,

not timely, or that not all telemarketing calls would be

eliminated. In their comments, The Direct Selling Association

(p. 2) states that "the high cost of the database could have a

chilling effect on the recruiting efforts of our member companies

and could significantly diminish the attractiveness of direct

selling as a viable income source." The American Newspaper

Publishers Association states "a national database could prove

quite costly...." These statements are unsupported. No study or

research to show that creation of such a database would be

prohibitively expensive has been offered. In fact, the Public

Utilities Commission of Ohio in its comments (p. 6) states that

the National Exchange Carrier Association has experience in

maintaining a national voluntary list and suggests that it may be

able to handle such a task efficiently, and at minimal cost.

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American Service Telemarketing, Inc. contends (p. 3) that "(u)nless you change the way phone numbers are assigned, retired, and re-assigned, the lists will by their very nature be inaccurate...." Given current technology, keeping a timely list should not be an insurmountable task. The comments provided by Privacy Times (p. 2) suggest that a national database could be generated in a timely manner and be accurate. Privacy Times indicates that the United States Postal Service's (USPS) National Change of Address system collects data from change of address cards and in 14 days reports the data to its contractors. The contractors immediately use the data to compile new movers lists that are sold to marketers. As Privacy Times (p. 2) states "if such information technology can be used to facilitate trafficking in personal data in 14-day cycles in a manner that reduces privacy, there is no reason it cannot be used to increase protection for privacy in a timely manner." We concur with Privacy Times recommendation that these lists should be updated every 30 days.


MCI states (p. 5) "a national database could actually add to consumer confusion and frustration. As an initial matter, consumers have a false sense of 'security' because a national database would not eliminate all telemarketing calls; consumer would still receive calls from no-profit and other exempt groups." Congress has indeed exempted certain calls from the prohibition. If these exempted calls are objectionable to consumers, further legislation may be appropriate to remove or

modify the exemption. Nevertheless, the fact that Congress has not prohibited all types of telemarketing calls does not reduce the effectiveness of a national "Do Not Call" list in protecting consumers from those calls which are not exempted.

Some commentators favored "Do Not Call" lists that would be created and maintained by each individual telemarketing company. These lists would be created when customers on receiving a call from a telemarketer indicate that they do not wish to be solicited again. The problem with this method is that an initial call of the type that consumers object to must be made so as to identify those customers who do not wish to receive such calls; and then only the specific company that called would avoid placing any further calls to this consumer. Any other telemarketing company would still have to make an initial call to the consumer to determine that he or she does not wish to receive such calls. This solution does not protect customers from telemarketing calls that they do not wish to receive.

For all these reasons, a national database could effectively and efficiently protect consumers from receiving calls that they do not wish to receive.

Respectfully submitted,



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